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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/881,172	06/14/2001	Christoph Foth	08920 - US	6781

7590

12/18/2002

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EXAMINER

KOVACS, ARPAD F

ART UNIT

PAPER NUMBER

3671

DATE MAILED: 12/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/881,172

Applicant(s)  
Foth

Examiner  
Árpád Fábián Kovács

Art Unit  
3671



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Oct 31, 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some\* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 8 6) ☐ Other:

Art Unit: 3671

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the mechanism required to operate guide vanes in such a way that, the vanes can be positioned as a function of the "wind direction" (claim 11, line 2; claim 14, line 4) and "inclination of the ground" (claim 12, line 2, claim 15, line 4) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to under 37 CFR 1.83(a) because they fail to show in paragraph 31 (pg. 8), ln 6, "the first arm"; ln 7, "an eye", "the second arm"; ln 10, "wind direction sensor", "ground inclination sensor"; ln 12, "spindle motor" as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Art Unit: 3671

*Specification*

3. The specification does not have antecedent basis for the following limitations recited in claims 11-2 & 14-15:

"pivots the mount as a function of the wind direction" and "pivots the mount as a function of the inclination of the ground".

Art Unit: 3671

*Claim Rejections - 35 USC § 112*

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 11-12, 14-15 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. In claims 11-12 & 14-15, the applicant recites: "pivots the mount as a **function** of the wind direction" and "pivots the mount as a **function** of the inclination of the ground", the specification refers to a sensor device (page 8, paragraph 31, line 12), which sensor, in view of the applicant, may allow for the function recited in the specification and/or the limitation recited in the claims. However, the function recited in the claims and/or the specification reciting the sensor making possible this function do not provide support and/or describe/show and/or explain how the mechanism would be used in combination with the pivotable guide vane system.

Art Unit: 3671

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claim(s) 1-8, 10, 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Baumgarten et al (5569081).

In re independent claims 1, 13, Baumgarten discloses a chopper and distribution device supported by frame of an agricultural combine used for typical harvester threshing/separating and distributing operation (fig 1 & 6, not numbered threshing, separating assembly; chopper at cutter drum ref 30, also, col. 2, lines 54-55, fig 4-5), the distribution device comprising:

at least one guide vane and/or guide vanes (plates, ref 32);

a drive (35 and/or 35A and/or 35), however, the drive maybe just a shaft moving the vanes back and forth, not numbered elements/drive shafts coupled to the motor ref 35 being the regulating motor (in re claim 10), operatively coupled to the guide vanes continuously moves the vanes back and forth (as shown on fig 5; and/or fig 2, refs 35A or 35B);

in re claim 2, the drive pivots the vanes about a vertical axis (axis 32A);

in re claim 3, the guide vanes are arranged transversely alongside each other and are connected to the drive (see fig 2-3; col 3, lines 35-40);

Art Unit: 3671

in re claim 4, the vanes are pivoted back and forth by an element (for example embodiments shown in fig 3 and/or 5, disk ref 36) which is rotated by the drive;

in re claim 5, a connecting rod that extends between the guide vanes (the rod which extends between the struts 33A-B and the element as best shown on fig 3) and a pin located in a hole in the element (a radially extending slot/aperture/hole at pin or fixing screw 36B as shown on fig 3);

in re claim 6, the hole of the element is a radially extending elongated hole (as shown on fig 3 at pin/screw 36B) and the pin can be locked in the elongated hole in various radial positions (by definition screw 36B allows to be locked, and also see col 3, lines 62-63);

in re claim 7, the guide vanes are connected to a strut (33A-B) which in turn is connected to the connecting rod (see fig 3), the guide vans can be locked to the strut so that the guide vanes can be repositioned (the vanes are locked to the struts, and the vanes can be repositioned as in col 3, lines 35-40);

in re claim 8, the guide vanes are connected over a connecting element with the strut (as best shown on fig 3, at connecting points to the strut), the distributing device is provided with a housing (31) having a top wall with an upper surface, the vanes are in sliding contact with the upper surface of the top wall (as best shown on fig 4, at ref 32; in fig 2-3, 5 & 7 is clearly shown as the guide vanes are in slidingly arranged on the upper surface of the top wall).



Art Unit: 3671

8. Claim(s) 1-3, 9, 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Boehm et al (4218022).

In re independent claims 1, 13, Boehm discloses an agricultural combine, having inherently the typical parts, such as frame, threshing & separating of grain from straw and straw chopper (ref 12), as disclosed in col 1, lines 11-20, the distributing device comprising:

guide vanes (plates ref 60), a drive operatively coupled to the guide vanes continuously move the vanes back and forth in a transverse direction (or any desired adjustment positions, as disclosed in col. 2, lines 61-68, col 3, lines 81-21) ;

in re claim 2, the vanes pivot about a vertical axis (64);

in re claim 3, the guide vanes are arranged transversely alongside each other and are connected to the drive (see fig 1, connected by trunnions ref 62);

in re claim 9, the guide vanes is provided with a diffuser (for example ref 76).

Art Unit: 3671

*Response to Arguments*

9. Applicant's arguments, amendment and IDS filed 10/31/2002 have been fully considered but they are not persuasive.

In re applicant's argument regarding page 3, 3rd paragraph, the examiner has considered the amendment to the claims referenced in the argument (claims 10-11, 14-15), and would like to direct the applicant's attention to the detailed objection & rejection outlined above.

In re applicant's argument regarding that neither Baumgarten nor Boehm teaches the "continuously moves" recitation in the claim, the examiner contends that the guide vanes and elements providing for movement are provided for both in Baumgarten & Boehm; for example, Baumgarten shows an identical disk ref 36, fig 5, which allows the guide vanes to be continuously moved just as the applicant's invention disclosed in fig 2 or 3.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


Art Unit: 3671

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Scharf shows closely related arts to applicant's invention.

Any inquiry concerning this communication should be directed to Árpád Fábián Kovács at telephone number (703) 308-5897, or in my absence contact Thomas B. Will whose telephone number is (703) 308-3870.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1113. The fax phone number for the Group is (703) 305-3597.

  
**Robert Pezzuto**  
**Primary Examiner**  
**GROUP 3671**

áfK/ÁFK  
December 15, 2002